Applicants respectfully traverse the rejections. It is apparent that in making the current rejections, the Examiner has simply <u>cut and pasted</u> the language from a rejection in the parent of the present application, i.e. U.S. patent application no. 09/412,173 (now issued as U.S. Patent no. 6,859,776); see, for example, pages 2-3 of the Final Office Action mailed on May 25, 2004 in the parent application. As such, the rejection in the present Office Action does not address the language of the claims in the present application.

It appears that the Examiner has not made a *bona fide* attempt to read and understand what is claimed in the present application and to locate and apply the closest prior art. Consequently, Applicants' have no obligation to respond to the substance of the rejection. Nonetheless, in an effort to expedite prosecution, Applicants submit the following comments regarding the rejection.

Claim 1 in the present application recites:

1. A method comprising:
establishing an audio-based dialog between a person and a machine, wherein the person uses a communication device to communicate with the machine;
automatically detecting a characteristic during the dialog in real time, wherein the characteristic is not uniquely indicative of any of: the identity of the person, the identity of the communication device, or any user account; and
customizing the dialog at an application level, based on the detected characteristic. (Emphasis added.)

The only element in claim 1 which the Examiner arguably comes close to addressing is the last element of the claim, i.e., the "customizing" element. The Examiner states, "Ladd et al (6493671) further teaches customizing the application

according to the dialog (col. 17 lines 11-32)" (Office Action, p. 3). However, that is <u>not</u> what is recited in claim 1; in fact, the Examiner's phrasing would completely alter the meaning of the claim element. The "customizing" in claim 1 recites customizing the <u>dialog</u>, not customizing an application.

Regardless, in contrast with claim 1, the cited section in Ladd (col. 17 lines 11-32) contains no hint of customizing a dialog at an application level, based on a characteristic automatically detected during the dialog in real time, wherein the characteristic is not uniquely indicative of any of: the identity of the person, the identity of the communication device, or any user account. Neither do Applicants find any disclosure or suggestion of such functionality anywhere else in Ladd. For at least this reason, therefore, claim 1 and all claims which depend on it are believed to be patentable over the cited art.

Each of the other independent claims in the present application contains similar limitations to those discussed above in claim 1 and is therefore patentable along with its dependent claims for similar reasons.

Because the rejection does not track Applicants' claim language, Applicants have not yet had a full and fair opportunity to understand how the Examiner is applying the cited art and to respond accordingly. Therefore, the next Office Action in this case, if not an allowance, must be a <u>non-final</u> Office Action.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

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